HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1615(S/S)05:

1. Constable 55585 Dhiren Singh Sonal,
   S/o Sri Parpan Singh Sonal,
   Presently serving as Constable 46 Battalion P.A.C,
   Rudrapur, Udham Nagar.
2. Constable 41110 Raghuveer Singh Giri,
   S/o late Sri Har Giri,
   Presently serving as Constable 31 Battalion P.A.C.,
   Rudrapur, Udham Nagar.
3. Constable 41095 Chandra Singh S/o Harpal Singh,
   Presently serving as Constable 31 Battalion P.A.C.,
   Rudrapur, Udham Nagar. -------- Petitioners.

Vs.

1. State of Uttaranchal through Secretary
   Home Department, Uttaranchal Shasan,
   Dehradun,
2. Director General of Police, Uttaranchal Shasan,
   Dehradun,
3. Inspector General of Police (Personnel),
   Uttaranchal Shasan, Dehradun,
4. Commandant, 46 Battalion, P.A.C., Rudrapur,
   Udham Singh Nagar,
5. Commandant, 31st Battalion, P.A.C., Rudurpur,
   Udham Singh Nagar. --------Respondents.

Sri Vinay Upadhyay, Adv. and Sri K.K. Tewari, ld. counsel for the petitioners,
Ld. Standing Counsel for State of Uttaranchal/ respondent s.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Vinay Upadhyay Adv. and Sri K.K. Tewari, learned counsel for the petitioners and learned Standing Counsel for the State/ respondents.

2. By means of this writ petition, the petitioners have prayed for the following relief:-

(1) issue a writ, order or direction in the nature of mandamus commanding the respondents to grant out of turn promotion to the petitioners from the post of Constable to the post of Head Constable.

(ii) issue a writ, order or direction in the nature of mandamus commanding the respondent no. 1 to grant the sanction to give out of turn promotion to the petitioner,

(iii) issue any other writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case,

(iv) award the cost of the petition in favour of the petitioners.

3. Submission of the learned counsel for the petitioner is that the petitioner no. 1 is serving as Constable in 46 Battalion P.A.C. Rudrapur and the petitioner nos. 2 & 3 are serving as Constable in 31 Battalion P.A.C., Rudrapur district Udham Singh Nagar. The petitioners are the sports persons and they have several medals and cash rewards in their credit. The petitioner no. 1 represented State of U.P. in 47th All India Police Wrestling, Weightlifting, Gymnastics, Judo and Boxing Championship 1988 and won Bronze medal for State of U.P. in Boxing Championship. Subsequently in the year 2001, the petitioner has won Bronze medal of 57 Kg. Weight Category Boxing Competition held at New Delhi. In 51st All India Police Games held at Bhiwani, Haryana From 7-10 November 2002, the petitioner succeed to get 3rd position and won Bronze medal for State of Uttaranchal in 60kg. event of Boxing Championship.

4. The petitioner no. 2 has represented State of U.P. in 47th All India Police Wrestling, Weightlifting Gymnastics, Judo and Boxing Championship 1988 at Madhuban and won Bronze medal for State of U.P. Subsequently in 48th All India Police Games 1999 held at Jalandhar Punjab from 26-30 October

1999, the petitioner has won Bronze medal for State of U.P. in the event of Boxing Championship.

5. Similarly, the petitioner no. 3 has represented State of U.P. in 47th All India Police Wrestling, Weightlifting, Gymnastics, Judo and Boxing Championship 1998 at Madhuban and won Bronze medal for State of U.Pl in Boxing Championship.

6. Accordingly, the petitioner have claimed out of turn promotion on the basis of policy of Govt. of U.P. and consequently, they have submitted representation to the Commandant.

7. The case of the petitioners has already considered and recommended by the Director General of Police, U.P. The Inspector General of Police (personnel) Uttaranchal has sent a letter to the Commandant, in reply to the recommendations made by the Commandant stating therein that there is no such provision for giving out of turn promotion to the sports police personnel and has further stated that the proposal for granting special promotion in this regard has already been sent to the Govt., yet no decision has been taken by the Govt. till date, therefore the petitioners cannot be promoted out of turn.

8. The respondents have filed counter affidavit. In para-9 of the counter affidavit filed on behalf of respondent nos. 2 to 5 it is submitted that the reference has been forwarded to the Govt. by the police Head Quarter at Dehradun for giving benefit to the petitioners in regard to their promotion out of turn on the ground of their having Sports medals to their credit. In para 12 of the counter affidavit it is submitted that the whole matter is pending before the Govt. to follow or not to follow the G.O. no. 172/66-P-10-2003-27(82)-2001 dated 07.01.2003 for granting

out of turn promotion to the sports persons of the police department.

9. No counter affidavit has been filed by the respondent no. 1

10. Since the State of Uttaranchal has yet not taken any decision on the matter as to whether the persons who are sports persons and have won medals in State or National games, the Court cannot direct the respondents to grant the petitioners out of turn promotions. Since the matter is already pending before the Govt., the Court think it just and proper to direct the respondent no. 1 to take decision on the matter as in para 9 and 12 of the counter affidavit as early as possible.

11. With these directions, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

April 13, 2006:
NCM: